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June 19, 2009

**VIA HAND DELIVERY**

Honorable Stephen C. Robinson  
United States District Court  
Southern District of New York  
United States Courthouse  
300 Quarropas Street, Room 633  
White Plains, New York 10601-4150

Re: *International Business Machines Corporation ("IBM") v. Johnson*, Case  
No. 09-CIV-4826 (SCR)

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Dear Judge Robinson:

We are co-counsel along with Morgan, Lewis & Bockius LLP for the defendant, David Johnson, in the referenced action. We write to respectfully request the Court's permission to file under seal the enclosed Supplemental Memorandum of Law In Opposition to Internal Business Machine's Motion for a Preliminary Injunction ("Supplemental Memorandum"). The Supplemental Memorandum addresses critical facts discovered through the expedited depositions of IBM's key human resources representatives and 30(b)(6) witnesses on the policies and procedures relating to non-competition agreements – all facts that address the threshold issue in this matter and of which Mr. Johnson was not aware at the time his opposition brief was required to be filed. Moreover, as noted in our separate letter to Your Honor of earlier today, IBM did not file their reply memorandum on time and, by doing so, gained the strategic advantage of being able to incorporate testimony from all deposition witnesses in their brief while Mr. Johnson has not had the opportunity to address the deposition testimony of *any* witness due to the deposition and briefing schedule.

We are serving a copy of the enclosed Supplemental Memorandum upon counsel to IBM today.

Deemed letter motion. Motion to file  
under seal granted. SO ORDERED  
Vern. Maguire - CRMJ  
6/19/09

SRZ-10923711.1

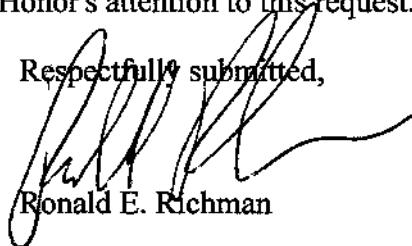
Honorable Stephen C. Robinson

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Thank you in advance for Your Honor's attention to this request.

Respectfully submitted,

A handwritten signature in black ink, appearing to read 'Ronald E. Richman', is written over the typed name. The signature is fluid and cursive, with a long horizontal stroke extending to the right.

Ronald E. Richman

Enclosure

cc: Michael L. Banks  
Evan R. Chesler (via hand delivery)  
Stephen S. Madsen (via hand delivery)